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| 10/759,623  | 01/16/2004  | Daniel John Gardner  | 1024.7              | 1225             |
| 53953   | 7590        | 09/18/2008           |                     |                  |
| DAVIS LAW GROUP, P.C.<br>6836 BEE CAVES ROAD<br>SUITE 220<br>AUSTIN, TX 78746 |             |                      | EXAMINER            |                  |
|   |             |                      | BETTT, JACOB F      |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/759,623

**Applicant(s)**

GARDNER ET AL.

**Examiner**

Jacob F. B  tit

**Art Unit**

2169

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,9,10,12-20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-7,9,10,12-20 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

#### ***Remarks***

1. In response to communications filed on 27 May 2008, claims 1, 3, 6, 7, 9, 10, 12-14, 16, 19, 20, and 22 have been amended per the applicant's request. Claims 1-7, 9, 10, 12-20, and 22 are presently pending in the application.

#### ***Priority***

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows: The later-filed application must be filed by an inventor or inventors named in the prior-filed application for a benefit claim under 35 U.S.C. 120, 121, or 365(c), and also for a benefit claim under 35 U.S.C. 119(e). This requirement is not met for provisional application 60/440,728 for which there are no inventors in common with the instant application.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,742,807 (Masinter).

1.1. *As per Claims 1 and 14,*

(Currently amended) A method of storing information related to a file, comprising:  
obtaining content and metadata of the file, wherein the file was stored in a first environment;  
(Masinter figure 5 first environment is the file system, a file implicitly contains content and metadata, col 4 line 7-10 teach files having attributes)  
in a second environment, storing the content and the metadata, wherein the content is associated with the metadata, and wherein the second environment is different from the first environment;  
(Masinter figure 5 the backup and archive systems are second environments, figure 6 shows copying the file to the backup)  
obtaining a location where the file was stored in the first environment; and  
in the second environment, storing the location in a location table, wherein the location table includes at least one of the following, indexed in response to the location: a link to the content; and a link to the metadata. (Masinter Col 5 lines 51-55)

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-4, 6-7, 9-10, 12-13, 15-17, 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,742,807 (Masinter) in view of US 6,928,526 (Zhu).

1.2. *As per claim 2,*

1.2.1. Masinter teaches the claims upon which claim 2 is dependant and a metadata hash table in figures 1 and 2, but fails to disclose having a content hash table. Zhu teaches the following:

- 1.2.1.1. Col 3 lines 25-35, teaches using a hash of the content to create a segment ID which is stored with the content, thus making the table a hash table using the broadest reasonable definition,
- 1.2.1.2. Col 4 lines 25-26 teaches meta data being stored in a metadata hash table.
- 1.2.2. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the features of Zhu in Masinter to reduce latency and eliminate unnecessary data replication. Zhu Col 1, lines 60-67.
- 1.3. *As per Claim 3 Zhu teaches,*
- generating a digital signature from the content; (Col 3 lines 25-31)
  - generating a digital signature from the metadata; (Col 5 lines 23-25)
  - storing the content in an entry in the content hash table
  - wherein the content's digital signature is an index into the content hash table, so that the content's digital signature is the link to the content (Figure 3 Segment ID is an index)
  - storing the metadata in an entry in the metadata hash table wherein the metadata's digital signature is an index into the metadata hash table, so that the metadata's digital signature is the link to the metadata.(Col 5 lines 23-28)
- 1.4. *As per Claim 4 Zhu teaches,* See Claim 3 and the corresponding sections referenced.
- 1.5. *As per Claims 6 and 7 Zhu teaches,* Both the disclosed tables(see claim 2 rejection) include the segment ID (See figure 3 and Col 5 lines 21-23)which using the broadest reasonable interpretation in a link between the two tables.

*1.6. As per Claim 9 Masinter teaches,*

Col 5 lines 51-55 teaches the location data stored in a location hash table, and wherein, storing the location comprises:

generating a digital signature from the location; and

storing the location in an entry in the location hash table, wherein the location's digital signature is an index into the location hash table, so that the location hash table is indexed in response to the location by indexing with the location's digital signature.

*1.7. As per Claim 10,*

See claims 1, 2, and 9 rejections, however Masinter fails to teach the storage location of the hash tables, however storing the hash tables in the backup environment is taught by Zhu, as shown in the previous mappings. Also note that mere rearrangement of parts is obvious to one of ordinary skill in the art. In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (Claims to a hydraulic power press which read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device.); In re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975) (the particular placement of a contact in a conductivity measuring device was held to be an obvious matter of design choice). As such this storage of the hash tables on the backup server would have been obvious to one of ordinary skill in the art.

*1.8. As per Claim 12,*

The content table contains the segment id, which is a link for a location associated with the content, wherein the location's digital signature is the link to the location. See figure 3.

*1.9. As per Claim 13,*

There is inherently a link between the metadata and a location associated with the metadata as the location hash table is part of the metadata hash table, wherein the location's digital signature is the link to the location.

*1.10. As per Claim 15,*

See Claim 2 rejection.

*1.11. As per Claim 16,*

See Claim 3 rejection.

*1.12. As per Claim 17,*

See Claim 4 rejection.

*1.13. As per Claim 19,*

See Claim 6 rejection.

*1.14. As per Claim 20,*

See Claim 7 rejection.

*1.15. As per Claim 22,*

See Claim 9 rejection.

2. Claims 5 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,742,870 (Masinter) in view of US 6928526(Zhu) in light of Official Notice.

*2.1. As per Claims 5 and 18,*

Zhu teaches using a hashing algorithm as discussed above, namely MD5; however, Zhu fails to expressly disclose using SHA1. The examiner takes official notice that SHA1 was well known in the art as it is a standard. Thus, it would have been obvious to one of ordinary skill in the art to use SHA1 as it is an industry standard and would be well known and easy to implement.

***Response to Arguments***

7. Applicant's arguments filed 27 May 2008 have been fully considered but they are not persuasive.

In response to the applicant's arguments that Masinter fails to teach "in the second environment, storing the location in a location table, wherein the location table includes at least one of the following, indexed in response to the location: a link to the content; and a link to the metadata", the arguments have been considered, but are not deemed persuasive. Masinter teaches a hashed to location index that includes a mapping to the file location of a document in the file system and also includes a hash to the backup location. Both of these elements are put in the index in response to the location in the original file location and the location of the backup.

8. In response to the applicant's arguments that "Masinter and Zhu fail to teach their combination with one another", the arguments have been considered, but are not deemed persuasive. Obviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or *in the knowledge generally*



*available to one of ordinary skill in the art.* See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Therefore, Masinter and Zhu do not need to teach their combination with one another provided that their combination would have been obvious to one having ordinary skill in the art at the time of the invention.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob F. B  tit whose telephone number is (571)272-4075. The examiner can normally be reached on Monday through Friday 10:30 am to 6:30 pm.

Art Unit: 2169

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on (571) 272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

jfb  
15 Sep 2008

/Tony Mahmoudi/  
Supervisory Patent Examiner, Art Unit 2169